

# ATTORNEY GENERAL[61]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 6B.2A(1)“f,” the Attorney General hereby gives Notice of Intended Action to amend Chapter 34, “Acquisition Negotiation Statement of Rights,” Iowa Administrative Code.

The limited purposes of the amendments to Chapter 34 are to remove outdated references to a 1999 session law, to remove a provision that implemented a statutory provision that has now been repealed, and to make a clarification and editorial enhancement to one provision.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 24, 2017. Such written materials should be directed to David L. Dorff, Assistant Attorney General, Environmental Division, Iowa Attorney General’s Office, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319; fax (515)281-4209; or via e-mail to [David.Dorff@iowa.gov](mailto:David.Dorff@iowa.gov). Persons who wish to convey their views orally should contact Mr. Dorff at (515)281-6710 or at the office of the Environmental Division on the second floor of the Hoover State Office Building.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 6B.2A(1)“f.”

The following amendments are proposed.

ITEM 1. Amend rule 61—34.1(78GA, HF476) as follows:

**61—34.1(78GA, HF476 6B) Statement of property owner’s rights.** ~~1999 Iowa Acts, House File 476, section 3,~~ Iowa Code section 6B.2A(1) mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the attorney general to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. Pursuant to that directive, the following statement of property owner’s rights is adopted:

### STATEMENT OF PROPERTY OWNER’S RIGHTS

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section ~~6B.45 as amended by 1999 Iowa Acts, House File 476, section 18;~~ Iowa Code section 6B.54 as amended by 1999 Iowa Acts, House File 476, section 20 6B.54(3))
3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency’s determination of just compensation is based not less than ten days before being contacted by the acquiring agency’s acquisition agent. (Iowa Code section ~~6B.45 as amended by 1999 Iowa Acts, House File 476, section 18)~~
4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section ~~6B.54 6B.54(2)~~)
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (~~1999 Iowa Acts, House File 476, section 3~~ Iowa Code section 6B.2B)
6. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency.

(Iowa Code section 6B.4; Iowa Code section 6B.7 as amended by 1999 Iowa Acts, House File 476, section 8; Iowa Code section 6B.18)

~~7. A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry. (1999 Iowa Acts, House File 476, section 7)~~

~~8. 7. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))~~

~~9. 8. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33 as amended by 1999 Iowa Acts, House File 476, section 15; Iowa Code section 6B.54(10))~~

~~10. 9. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners' award. (Iowa Code section 6B.33)~~

~~11. 10. At To the greatest extent practicable, be provided at least 90 days' written notice to vacate occupied property prior to construction or development of a public improvement. (Iowa Code section 6B.54(4))~~

~~12. 11. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42 as amended by 1999 Iowa Acts, House File 476, section 17)~~

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

ITEM 2. Amend rule 61—34.2(78GA,HF476) as follows:

**61—34.2(78GA,HF476 6B) Alternate statement of rights.** Rule 61—34.1(78GA,HF476 6B) is not intended to prohibit acquiring agencies from providing a statement of rights in a different form, a more detailed statement of rights, or supplementary material expanding upon an owner's rights.

ITEM 3. Amend **61—Chapter 34**, implementation sentence, as follows:

These rules are intended to implement ~~1999 Iowa Acts, House File 476, section 3~~ Iowa Code section 6B.2A(1).